IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.392 of 2006

Ilayaraja ... Petitioner

Vs.

1.The State rep.by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Kancheepuram District at
Kancheepuram. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order passed by the second respondent pertaining to the order made in B.D.F.G.I.S.V.No.8/2006 dated 27.02.2006 in detaining the detenue under 2-b of Tamil Nadu Act, 14 of 1982, as a Bootlegger, quash the same and direct the respondents to produce the detenue Saratha, wife of Mohan, aged about 35 years, who is detained at Special Prison for Women, Vellore, before this Court and set her at liberty.

For Petitioner : Mr.O.S.Thilak Pasumbadiyar
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the brother of the detenue by name Saratha, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention

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order dated 27.02.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenue, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenue dated 04.04.2006 was received by the Government on 06.04.2006 and remarks were called for on 07.04.2006 and the remarks were received by the Government on 17.04.2006 and the File was submitted on 20.04.2006 and the same was dealt with by the Under Secretary on the same day i.e. on 20.04.2006 and by the Deputy Secretary on 21.04.2006 and finally, the Minister for Prohibition and Excise passed orders on the same day i.e. on 21.04.2006. The rejection letter was prepared on 10.05.2006 and the same was sent to the detenue on 12.05.2006 and served to him on 16.05.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 21.04.2006, there is no explanation at all for taking time for preparation of rejection letter till 10.05.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenue in disposal of her representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Kancheepuram District Kancheepuram.

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3. The Superintendent, Special Prison for Women, Vellore.
(In duplicate for communication to detenue)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

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